

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

| | | |
|---------------------------|---|---------------|
| JERRY LEE ELLERBE, JR., |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | 1:20-cv-544 |
| |) | 1:18-cr-237-1 |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

ORDER

On June 8, 2023 the United States Magistrate Judge's Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 30, 31.)

The record reflects that the Recommendation was served by mail to Petitioner's last known address at Petersburg Medium Federal Correctional Institution, P.O. Box 1000, Petersburg, Virginia, but returned undeliverable with the notice of, "Return to Sender, Not Deliverable as Addressed, and Unable to Forward." (See Doc. 32.) On July 26, 2023, notice was served on Petitioner at his forwarding address provided by the United States Probation Office. (See Doc. 33.) No objections were filed within the time prescribed by Section 636.

Therefore, the court need not make a de novo review and the Magistrate Judge's recommendation is hereby adopted.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 30), is **ADOPTED. IT IS FURTHER ORDERED** that Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence, (Doc. 23), is **DENIED**, and this action is hereby **DISMISSED**. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is denied.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 15th day of August, 2023.


United States District Judge